

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., *et al.*,

Debtors.

W.R. GRACE & CO., *et al.*,

Plaintiffs,

v.

MARGARET CHAKARIAN, *et al.*, and
JOHN DOES 1-1000,

Defendants.

Chapter 11

Case No. 01-01139 (JKF)

Jointly Administered

Adversary No. A-01-771

Appeal No. 08-27

**LIBBY CLAIMANTS' DESIGNATION OF RECORD
AND STATEMENT OF ISSUES ON APPEAL**

Claimants injured by exposure to asbestos from the Debtors' operations in Lincoln County, Montana (the "Libby Claimants"),¹ pursuant to Fed. R. Bankr. P. 8006, designate the following items to be included in the record on appeal and submit the following statement of issues to be presented in connection with the Libby Claimants' appeal from the Memorandum Opinion and Order Expanding the Preliminary Injunction to Include Actions Against Burlington Northern and Sante Fe Railroad, by the Honorable Judith K. Fitzgerald, United States Bankruptcy Judge, entered on April 14, 2008 [Docket No. 498].

¹ As identified in the Verified Statement of Cohn Whitesell & Goldberg LLP and Landis Rath & Cobb LLP Pursuant to Fed. R. Bankr. P. 2019 [Main Case Docket No. 17337] filed in this case, as it may be amended and restated from time to time.

I. DESIGNATION OF RECORD

The Libby Claimants hereby designate the following items to be included in the record on appeal:

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE			
Designated No.	Date of Filing	Docket No.	Description
1	01/22/02	Adv. Proc. 87	Order Granting Modified Preliminary Injunction
2	08/08/03	Adv. Proc. 154	Memorandum Opinion of District Court
3	04/08/04	Adv. Proc. 190	Motion to Allow Motion for Relief from Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
4	04/30/04	Adv. Proc. 199	Objection to Debtors' Response in Objection to Libby Claimants' Motion for Relief from Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
5	05/14/04	Adv. Proc. 201	Exhibit Libby Claimants' Supplement to Motion for Relief from Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
6	05/14/04	Adv. Proc. 202	Motion for Leave to File Libby Claimants' Response to Objections to Motion for Relief from Automatic Stay and Preliminary Hearing to Take Perpetuation Depositions
7	07/20/04	Adv. Proc. 242	Motion for Relief from Stay Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition [Shirley Taylor-Regjovich]
8	07/20/04	Adv. Proc. 243	Motion for Relief from Stay Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition [Lois Shea]
9	07/20/04	Adv. Proc. 244	Motion for Relief from Stay Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition [Dayton Hill]
10	07/20/04	Adv. Proc. 245	Motion for Relief from Stay Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition [Rodney Erickson]
11	08/06/04	Adv. Proc. 256	Response to Debtors' Response in Objection to Libby Claimants' Motions for Relief From Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions

12	08/06/04	Adv. Proc. 260	Objection to Libby Claimants' Motions for Relief From Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
13	08/17/04	Adv. Proc. 262	Suggestion of Death Filed Libby Claimants
14	08/19/04	Adv. Proc. 263	Motion for Leave to File Libby Claimants' Response to Objections to Motions for Relief From Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
15	08/20/04	Adv. Proc. 265	Order Authorizing Libby Claimants Leave to File Libby Claimants' Response to Objections to Motions for Relief From Automatic Stay and Preliminary Injunction to Take Perpetuation Depositions
16	08/25/04	Adv. Proc. 266	Order Denying Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition
17	08/25/04	Adv. Proc. 267	Order Denying Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition
18	08/25/04	Adv. Proc. 268	Order Denying Libby Claimants' Motion for Relief From the Automatic Stay and Preliminary Injunction to Take Perpetuation Deposition
19	10/12/04	Adv. Proc. 298	Memorandum Opinion Regarding Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against Montana Vermiculite Company
20	10/12/04	Adv. Proc. 299	Order Granting Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against Montana Vermiculite Company
21	06/09/05	Main Case 8582	State of Montana's Motion for Relief from Stay
22	06/28/05	Main Case 8705	Official Committee of Unsecured Creditors' Objection to the Motion of the State of Montana for Relief from Stay
23	06/28/05	Main Case 8707	Official Committee of Asbestos Property Damage Claimants' Objection to the Motion of the State of Montana for Relief from Stay
24	06/28/05	Main Case 8708	Debtors' Objection to the Motion of the State of Montana for Relief from Stay
25	08/22/05	Adv. Proc. 359	Debtors' Motion to Expand their Preliminary Injunction to Include Actions Against the State of Montana
26	08/22/05	Adv. Proc. 360	Debtors' Motion for Leave to Amend Complaint
27	08/09/05	Adv. Proc. 361	Joinder of the Official Committee of Unsecured Creditors in Debtors' Motion to Expand their Preliminary Injunction to Include Actions Against the State of Montana

28	10/05/05	Adv. Proc. 362	State of Montana's Response to Debtors' Motion to Expand Preliminary Injunction to Include Actions Against the State of Montana
29	10/07/05	Adv. Proc. 363	Opposition of Libby Claimants to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against the State of Montana
30	10/07/05	Adv. Proc. 364	Limited Opposition of Libby Claimants to Debtors' Motion for Leave to Amend Complaint
31	10/07/05	Adv. Proc. 365	Joinder of the Official Committee of Asbestos Personal Injury Claimants in the Opposition of Libby Claimants to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against the State of Montana
32	10/14/05	Adv. Proc. 367	Debtors' Motion for Leave to File a Reply in Further Support of their Motion to Expand Preliminary Injunction to Include Actions Against the State of Montana
33	10/17/05	Adv. Proc. 368	Certification of Counsel filed by Libby Claimants
34	12/22/05	Adv. Proc. 372	Order Granting Debtors' Motion for Leave to File a Reply in Further Support of Their Motion to Expand Preliminary Injunction to Include Actions Against the State of Montana
35	12/29/05	Adv. Proc. 373	Libby Claimants' Notice of Appeal
36	01/10/06	Adv. Proc. 375	Certification of Counsel on Order Regarding Debtors' Motion to Expand its Preliminary Injunction to Include Actions Against the State of Montana
37	01/17/06	Adv. Proc. 376	Order Regarding Debtors' Motion to Expand its Preliminary Injunction to Include Actions Against the State of Montana
38	01/18/06	Adv. Proc. 377	Libby Claimants' Designation of Record and Statement of Issues on Appeal
39	01/19/06	Adv. Proc. 378	Libby Claimants' Amendment to Notice of Appeal
40	01/30/06	Adv. Proc. 380	Counter-Designation of State of Montana of Items to be Included in the Record on Appeal and Statement of Issues to Be Presented on Appeal
41	01/30/06	Adv. Proc. 381	Debtors' Designation of Additional Items to be Included in the Record on Appeal
42	01/30/06	Adv. Proc. 382	Debtors' Counter-Statement of Issues on Appeal
43	01/30/06	Adv. Proc. 383	Debtor's Motion to Dismiss Appeal
44	01/31/06	Adv. Proc. 384	Joinder of the State of Montana in Debtors' Motion to Dismiss Appeal
45	02/13/06	Adv. Proc. 387	District Court Order Denying Motion to Suspend Briefing

46	02/15/07	Adv. Proc. 389	Motion of BNSF for Clarification of the Scope of the Preliminary Injunction, or in the Alternative, for Relief from the Preliminary Injunction
47	02/28/07	Adv. Proc. 390	Libby Claimants' Statement Concerning Motion of BNSF Concerning Preliminary Injunction
48	03/16/07	Adv. Proc. 391	Continental Casualty Company's Objection to Motion of BNSF for Clarification of the Scope of the Preliminary Injunction, or in the Alternative, for Relief from the Preliminary Injunction
49	03/16/07	Adv. Proc. 392	Royal Indemnity Company's Objection to Motion of BNSF for Clarification of the Scope of the Preliminary Injunction, or in the Alternative, for Relief from the Preliminary Injunction
50	03/16/07	Adv. Proc. 393	Maryland Casualty Company's Objection to the Motion of BNSF for Clarification of the Scope of the Preliminary Injunction, or in the Alternative, for Relief from the Preliminary Injunction
51	03/16/07	Adv. Proc. 394	Debtors' Response to Motion of BNSF for Clarification of the Scope of the Preliminary Injunction and Cross-Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
52	03/16/07	Adv. Proc. 395	Debtors' Motion for Leave to Further Amend Complaint
53	03/22/07	Adv. Proc. 396	Order regarding Debtors' Response and Cross-Motion
54	03/26/07	Adv. Proc. 397	Royal Indemnity Company's Response to Debtors' Response to Motion of BNSF for Clarification of the Scope of the Preliminary Injunction and Cross-Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
55	03/26/07	Adv. Proc. 398	Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
56	04/03/07	Adv. Proc. 401	Emergency Motion of Libby Claimants to Reschedule Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
57	04/04/07	Adv. Proc. 403	Notice of Service of Discovery of Libby Claimants' Request for Production of Documents Propounded on Debtors, Continental Casualty Company, Maryland Casualty Company and Royal Indemnity Company
58	04/05/07	Adv. Proc. 404	Emergency Motion of Libby Claimants for Expedited Discovery
59	04/06/07	Adv. Proc. 405	Objection of Continental Casualty Company to Emergency Motion of Libby Claimants for Expedited Discovery

60	04/09/07	Adv. Proc. 406	Debtors' Objection to the Emergency Motion of Libby Claimants to Reschedule Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
61	04/10/07	Adv. Proc. 407	Joinder and Response of the Official Committee of Asbestos Personal Injury Claimants to the (I) Emergency Motion of Libby Claimants to Reschedule Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF and (II) Emergency Motion of Libby Claimants for Expedited Discovery
62	04/10/07	Adv. Proc. 408	Royal Indemnity Company's Joinder in the Objections to the Libby Claimants' Emergency Motion Filed by the Debtors and Continental Casualty Company
63	04/10/07	Adv. Proc. 409	Response of BNSF Railway Company to Emergency Motions of Libby Claimants for Expedited Discovery and to Reschedule Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
64	04/13/07	Adv. Proc. 410	Order Denying Emergency Motion of Libby Claimants to Reschedule Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
65	04/13/07	Adv. Proc. 411	Order Denying Emergency Motion of Libby Claimants for Expedited Discovery
66	04/13/07	Adv. Proc. 412	BNSF Railway Company's Response to Debtors' Motion For Leave To Further Amend Complaint
67	04/13/07	Adv. Proc. 413	BNSF Railway Company's Response to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
68	04/13/07	Adv. Proc. 414	Opposition of the Official Committee of Asbestos Personal Injury Claimants to the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
69	04/13/07	Adv. Proc. 415	Opposition of the Official Committee of Asbestos Personal Injury Claimants to Debtors' Motion for Leave to Further Amend Complaint
70	04/13/07	Adv. Proc. 416	Opposition of Libby Claimants to Debtors' Motion for Leave to Further Amend Complaint
71	04/13/07	Adv. Proc. 417	Opposition of Libby Claimants to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
72	04/13/07	Adv. Proc. 418	Libby Claimants' Motion in Limine
73	04/16/07	Adv. Proc. 419	Memorandum Opinion Concerning Order Denying Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against the State of Montana

74	04/16/07	Adv. Proc. 420	Order Denying Debtors' Motion To Expand The Preliminary Injunction To Include Actions Against The State of Montana
75	04/16/07	Main Case 15197	Memorandum Opinion Concerning Order Denying the State of Montana Relief from the Automatic Stay
76	04/16/07	Main Case 15198	Order Denying the State of Montana for Relief from the Automatic Stay
77	04/23/07	Adv. Proc. 422	Maryland Casualty Company's Reply in Support of Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
78	04/24/07	Adv. Proc. 424	Debtors' Motion for Leave to File a Reply in Further Support of Their Motion to Expand Preliminary Injunction to Include Actions Against BNSF
79	04/25/07	Adv. Proc. 425	Objection of Maryland Casualty Company to the Libby Claimants' Motion in Limine
80	04/26/07	Main Case 15390	Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay Entered April 16, 2007
81	04/26/07	Main Case 15393	Motion of State of Montana for Order Shortening Notice Regarding State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay Entered April 16, 2007
82	04/26/07	Adv. Proc. 426	State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Debtors' Motion for Expansion of Preliminary Injunction Entered April 16, 2007
83	04/26/07	Adv. Proc. 427	Debtors' Motion to Alter and Amend the Court's Order Denying Its Request to Expand the Preliminary Injunction to Include Actions Against the State of Montana
84	04/27/07	Adv. Proc. 429	Order Striking Reply Filed by Maryland Casualty Company
85	04/27/07	Adv. Proc. 430	Order Striking Libby Claimants' Motion in Limine
86	04/27/07	Adv. Proc. 431	Order Granting Debtors' Motion for Leave to File a Reply
87	04/27/07	Adv. Proc. 432	Debtors' Reply in Support of Their Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
88	04/27/07	Adv. Proc. 433	Continental Casualty Company's Motion for Leave to File Reply (I) to Various Responses to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF, and (II) In Support of Expansion Motion
89	04/30/07	Adv. Proc. 435	Maryland Casualty Company's Motion for Leave to File a Reply In Support of Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF

90	05/01/07	Adv. Proc. 438	Motion of BNSF for Leave to File a Reply (I) In Further Support of Its Motion for Clarification of the Scope of the Preliminary Injunction, or In the Alternative, for Relief From the Preliminary Injunction and (II) In Further Opposition to the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
91	05/03/07	Main Case 15491	Order Granting the Motion to Shorten Notice with Respect to State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay Entered April 16, 2007
92	05/04/07	Adv. Proc. 439	Maryland Casualty Company's Objection to Libby Claimants' Request for Production of Documents Propounded Upon Maryland Casualty Company
93	05/09/07	Adv. Proc. 440	Continental Casualty Company's Objection to Libby Claimants' Request for Production of Documents Propounded on Continental Casualty Company
94	05/10/07	Adv. Proc. 441	Royal Indemnity Company's Objection to Libby Claimants' Request for Production of Documents Propounded Upon Royal Indemnity Company
95	05/14/07	Adv. Proc. 442	Libby Claimants' Objection to Motions Filed by Debtors and State of Montana to Reconsider Order Denying Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against the State of Montana
96	05/14/07	Adv. Proc. 443	Opposition of the Official Committee of Asbestos Personal Injury Claimants to the Debtors' and the State of Montana's Motions to Reconsider the Court's Decision Denying a Stay of Litigation Against Montana
97	05/14/07	Main Case 15647	Debtors' Objection to the State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion for Relief from Automatic Stay
98	05/16/07	Adv. Proc. 444	Order Denying Continental Casualty Company's Motion for Leave to File a Reply (I) to Various Responses to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF, and (II) In Support of Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
99	05/17/07	Main Case 15679	State of Montana's Motion for Leave to File Reply in Further Support of Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay
100	05/22/07	Main Case 15757	Order Granting State of Montana's Motion for Leave to File Reply in Further Support of Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay

101	05/24/07	Main Case 15804	State of Montana's Certification of Counsel on Order Regarding State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay Entered April 16, 2007
102	05/25/07	Main Case 15821	Joinder of the Official Committee of Asbestos Personal Injury Claimants to Montana Plaintiff's Objection to Proposed Order Further Staying the State of Montana Litigation and Objection to Proposed Order Regarding State Of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana Relief from the Automatic Stay Entered April 16, 2007
103	05/25/07	Adv. Proc. 446	Certification of Debtors' Counsel on Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
104	05/25/07	Main Case 15824 Adv. Proc. 447	Montana Plaintiffs' Objection to Proposed Orders Staying the State of Montana and BNSF Litigation
105	05/29/07	Main Case 15876 Adv. Proc. 448	Objection of the Official Committee of Asbestos Personal Injury Claimants to Certification of Debtors' Counsel on Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
106	05/30/07	Adv. Proc. 449	BNSF Railway Company's Certification of Counsel on Order Regarding the Motion of Burlington Northern Santa Fe Railway Company for Clarification of the Scope Of the Preliminary Injunction
107	06/01/07	Adv. Proc. 450	Objection to Certification of Counsel Submitted by BNSF Railway Company Relating to the Motion of BNSF for Clarification of the Scope of the Preliminary Injunction, Or in the Alternative, for Relief from the Preliminary Injunction
108	06/06/07	Adv. Proc. 453	Modified Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
109	06/06/07	Main Case 15969	Modified Order Regarding State of Montana's Motion for Reconsideration of Court's Opinion and Order Denying Motion of the State of Montana for Relief from the Automatic Stay Entered April 16, 2007
110	06/12/07	Adv. Proc. 457	Order Granting Motion of BNSF Railway Company for Clarification of the Scope of Preliminary Injunction, or in the Alternative, for Relief from the Preliminary Injunction

111	06/14/07	Adv. Proc. 458	Motion of the Official Committee of Asbestos Personal Injury Claimants to Alter and Amend the Court's Modified Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
112	06/18/07	Adv. Proc. 459	Libby Claimants' Motion to Alter or Amend the Court's Modified Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
113	06/22/07	Adv. Proc. 461	BNSF Railway Company's Joinder in Libby Claimants' Motion to Alter or Amend the Court's Modified Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
114	07/06/07	Adv. Proc. 462	Limited Response of State of Montana to Libby Claimants' Motion to Alter or Amend the Court's Modified Order Regarding the Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
115	07/06/07	Adv. Proc. 463	Debtors' Consolidated Response to Motions to Alter and Amend the Court's Temporary Stay Order Regarding Actions Against BNSF and the State of Montana
116	08/06/07	Adv. Proc. 465	Certification of Counsel Regarding Amended Order Regarding Motions To Expand The Preliminary Injunction
117	08/29/07	Adv. Proc. 466	Amended Order Regarding Motions to Expand the Preliminary Injunction
118	08/30/07	Adv. Proc. 467	Libby Claimants' Notice of Appeal
119	01/24/08	Adv. Proc. 474	Memorandum and Order Dismissing Appeal Without Prejudice
120	02/18/08	Adv. Proc. 477	Status Report
121	02/26/08	Adv. Proc. 478	Letter from Daniel C. Cohn, Esq. to the Honorable Judith K. Fitzgerald re: Injunction Pleadings
122	02/29/08	Adv. Proc. 479	Letter to Judge Fitzgerald re: Manville Opinion
123	03/04/08	Adv. Proc. 480	Letter to Judge Fitzgerald re: Manville Opinion
124	03/31/08	Adv. Proc. 483	Memorandum Opinion
125	03/31/08	Adv. Proc. 484	Order Denying Motions to Reconsider
126	04/01/08	Adv. Proc. 485	Memorandum Opinion
127	04/09/08	Adv. Proc. 486	State of Montana's Motion for Stay Pending Appeal in the District Court of this Court's Order Denying the Montana's Motion for Reconsideration

128	04/09/08	Adv. Proc. 487	Motion to Shorten Time and Expedited Consideration of State of Montana's Motion for Stay Pending Appeal in the District Court of this Court's Order Denying Montana's Motion for Reconsideration
129	04/09/08	Adv. Proc. 488	Order (INTERIM) (I) Granting Motion for Expedited Hearing on State of Montana's Motion to Stay Pending Appeal and (II) Staying Actions Against State of Montana Pending Expedited Consideration of Its Motion for Stay Pending Appeal of This Court's Order Dated March 27, 2008
130	04/10/08	Adv. Proc. 490	Notice of Appeal filed by the State of Montana
131	04/10/08	Adv. Proc. 492	Notice of Appeal filed by W.R. Grace
132	04/11/08	Adv. Proc. 495	Motion for Leave to Appeal filed by W.R. Grace
133	04/14/08	Adv. Proc. 498	Memorandum Opinion in Regards to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF
134	04/14/08	Adv. Proc. 499	Objection to Motion To Stay Pending Appeal in the District Court of this Court's Order Denying Montana's Motion for Reconsideration
135	04/21/08	Adv. Proc. 505	Opposition of Libby Claimants to Motion of W.R. Grace for Leave to Appeal Order Denying Injunction
136	04/22/08	Adv. Proc. 508	Order (Memorandum) Granting Motion for Stay Pending Appeal
137	04/24/08	Adv. Proc. 509	Notice of Appeal filed by Libby Claimants
138	04/24/08	Adv. Proc. 511	Motion of Libby Claimants for Leave to Appeal Order Enjoining Actions Against BNSF
Transcripts			
139	08/26/04	Main Case 6266	Transcript of August 23, 2004 Hearing
140	01/03/06	Main Case 11473	Transcript of December 19, 2005 Hearing
141	06/04/07	Main Case 15948	Transcript of May 21, 2007 Hearing
142	07/31/07	Main Case 16445	Transcript of July 23, 2007 Hearing

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE Case No. 06-26			
Designated No.	Date of Filing	Docket No.	Description
143	01/13/06	1	Libby Claimants' Notice of Appeal
144	01/19/06	3	Designation of Record and Statement of Issues on Appeal
145	01/20/06	4	Amendment to Notice of Appeal
146	02/02/06	5	Brief of Libby Claimants
147	02/01/06	7	Counter-Designation of State of Montana of Items to be Included in the Record on Appeal and Statement of Issues to Be Presented on Appeal
148	02/01/06	8	Debtors' Designation of Additional Items to be Included in the Record on Appeal
149	02/01/06	9	Debtors' Motion to Dismiss Appeal
150	02/01/06	10	Joinder of the State of Montana in Debtors' Motion to Dismiss Appeal
151	02/01/06	11	Debtors' Counter-Statement of Issues on Appeal
152	02/07/06	12	Debtors' Motion to Suspend Briefing Schedule Pending Resolution of Motion to Dismiss
153	02/07/06	13	Debtors' Reply in Support of Motion to Dismiss Appeal
154	02/07/06	14	Debtors' Amended Motion to Suspend Briefing Schedule Pending Resolution of Motion to Dismiss
155	02/09/06	15	Libby Claimants' Response to Debtors' Motion to Dismiss Appeal
156	02/10/06	16	Debtors' Motion for Extension of Time
157	02/10/06	17	Debtors' Supplemental Brief in Support of Motion to Dismiss Appeal
158	02/13/06	18	Order Denying Motion to Stay Briefing Schedule
159	02/13/06	19	Joinder of the State of Montana in Debtors' Motion for Extension of Time
160	02/15/06	20	Order granting Debtors' Motion for Extension of Time
161	03/03/06	21	Brief of the State of Montana
162	03/03/06	22	Brief of Debtors
163	03/10/06	23	Reply Brief of Libby Claimants
164	03/10/06	24	Libby Claimants' Request for Oral Argument
165	04/12/06	25	Order Granting Request for Oral Argument
166	05/11/06	26	Memorandum and Order Dismissing Appeal and Remanding to Bankruptcy Court
167	09/17/07	27	Transcript of April 25, 2006 Hearing

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE Case No. 07-609			
Designated No.	Date of Filing	Docket No.	Description
168	10/04/07	1	Notice of Appeal
169	10/25/07	6	Appellant's Brief
170	11/13/07	7	Motion of W.R. Grace to Dismiss Appeal
171	11/13/07	8	Joinder of the State of Montana in Debtors' Motion to Dismiss Appeal
172	11/13/07	9	Answering Brief of the State of Montana
173	11/13/07	10	Appellees' Brief
174	12/03/07	11	Libby Claimants' Opposition to Motion of W.R. Grace to Dismiss Appeal
175	12/03/07	12	Appellants' Reply Brief
176	12/07/07	13	Answering Brief
177	12/13/07	14	Reply of W.R. Grace in Support of Motion to Dismiss Appeal
178	1/22/08	15	Memorandum and Order Dismissing Without Prejudice

II. STATEMENT OF ISSUES ON APPEAL

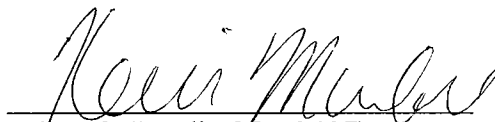
The Libby Claimants hereby submit the following statement of issues presented by this appeal:

1. Did the Bankruptcy Court have subject matter jurisdiction to enjoin the Libby Claimants' pending litigation against a non-debtor party, BNSF Railway Company and its predecessors, the Great Northern Railway Company, the Burlington Northern Railway Company, and the Burlington Northern & Santa Fe Railway Company ("BNSF"), where the litigation asserts claims against BNSF for its own tortious conduct?

2. Even if the Bankruptcy Court had subject matter jurisdiction to enjoin the litigation, did the Bankruptcy Court err in staying the Libby Claimants' pending litigation against BNSF based solely on BNSF's own tortious conduct without requiring Debtor W. R. Grace & Co., Inc. to establish grounds for entry of an injunction against independent third-party litigation under the stringent standards established by caselaw?

Dated: May 5, 2008
Wilmington, Delaware

LANDIS RATH & COBB LLP



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- and -

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Counsel for the Libby Claimants

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., *et al.*,

Debtors.

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Plaintiffs,

v.

MARGARET CHAKARIAN, *et al.*, and
JOHN DOES 1-1000,

Defendants.

Chapter 11

Case No. 01-01139 (JKF)

Jointly Administered

Adversary No. A-01-771

Appeal No. 08-27


AFFIDAVIT OF SERVICE

STATE OF DELAWARE)
) SS
NEW CASTLE COUNTY)

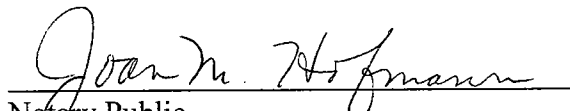
Cathy A. Adams, being duly sworn according to law, deposes and says that she is employed by the law firm of Landis Rath & Cobb LLP, attorneys for the Libby Claimants in the above-referenced cases, and on the 5th day of May, 2008, she caused a copy of the following:

**LIBBY CLAIMANTS' DESIGNATION OF RECORD
AND STATEMENT OF ISSUES ON APPEAL**

to be served upon the parties on the attached list via first class mail or in the manner as indicated.


Cathy A. Adams

SWORN TO AND SUBSCRIBED before me this 5th day of May, 2008.


Notary Public

JOAN M. HOFMANN
NOTARY PUBLIC
STATE OF DELAWARE
My commission expires Dec 15, 2008

**W.R. Grace & Co., *et al.* v. Margaret Chakarian, *et al.*,
and John Does 1-1000**

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